

231 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15666-2024 (O&M)
Date of decision: 08.08.2024

DALJEET KAUR

...PETITIONER

V/S

HARGUN KAUR AND ANOTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Karambeer Singh Randhawa, Advocate for
Mr. S.S. Gill, Advocate for the petitioner.

HARPREET SINGH BRAR J. (ORAL)

1. The petitioner is seeking transfer of the case bearing MNT No. 125/8/2023 dated 01.02.2023 titled as *Hargun Kaur and Another Vs. Daljeet Kaur* which is pending before the Court of Ms. Archana Kamboj, Principal Judge, Family Court, Jalalabad to the Court of Principal Judge, Family Court, Sirsa.

2. It has been contended by learned counsel for the petitioner that marriage between the petitioner and Inderpreet Singh was solemnized on 17.12.2006 and out of the said wedlock two children i.e. respondents herein were born. It is further contended that petitioner had filed two petitions i.e. one under Section 13 of Hindu Marriage Act against her husband for dissolution of marriage, which is pending before learned Principal Judge, Family Court at Sirsa and the other under the Protection of Women from Domestic Violence Act, 2005 against her in-laws, which is pending in the Court of learned Chief Judicial Magistrate, Sirsa and just to harass the petitioner, her in-laws have got the present petition filed under Section 125 of Cr.P.C, through her children i.e.



respondents herein and the same is pending before learned Principal Judge, Jalalabad. It is further contended that petitioner is living at her parental home and she has no source of income to maintain herself and it is very difficult for her to attend the Court proceedings at Jalalabad as one side distance between Jalalabad and Sirsa is around 150 kms and hence, petitioner is facing hardships in going to Jalalabad to attend the Court proceedings.

3. Further, learned counsel for the petitioner relies upon the judgments rendered by the Hon'ble Supreme Court in ***Sumita Singh Vs. Kumar Sanjay and another***, AIR 2002 SC 396 and ***Rajani Kishor Pardeshi Vs. Kishor Babulal Pardeshi***, (2005) 12 SCC 237 to contend that while deciding the transfer applications, more weightage and consideration should be given to the convenience of the female litigants and transfer of legal proceedings from one Court to another Court should ordinarily be allowed in order to avoid undue hardship to the female litigants.

4. Mr. Paras Jhamb, Advocate has put in appearance on behalf of respondents and filed his memo of appearance. Same is taken on record. Learned counsel for respondents vehemently opposes the prayer made by learned counsel for the petitioner.

5. Heard.

6. On 04.04.2024, following order was passed by a Co-ordinate Bench of this Court:

“The petitioner is seeking transfer of case bearing No.MNT No.125/8/2023 dated 01.02.2023 titled as Hargun Kaur @ Anr. Vs. Daljeet Kaur which is pending before the Court of Ms. Archana Kamboj, Principal Judge, Family Court, Jalalabad to Court of Principal Judge, Family Court, Sirsa.



Notice of motion for 07.05.2024.”

7. A two Judge Bench of the Hon’ble Supreme Court dealt with power of the Court to transfer proceedings under Sections 24 and 25 of the Civil Procedure Code in ***Kulwinder Kaur @ Kulwinder Gurcharan Singh Vs. Kandi Friends Education Trust***, AIR 2008 SC 1333, wherein it was held that the power to make such transfers is discretionary in nature and hence, it would be unwise to attempt to shackle it with a blanket formula uniformly applicable to all situations. However, it cannot be denied that the power must be used with abundance of care and caution. Further a three Judge Bench of the Hon’ble Supreme Court in ***Gana Saraswathi Vs. H. Raghu Prasad***, (2000) 10 SCC 277 had observed that in the interest of justice, the doctrine of forum nonconveniens can also be extended to matrimonial proceedings. It was stated that Courts usually allow transfer petitions in such cases to ensure that the wife does not suffer on account of not being able to participate in the proceedings.

8. A two Judge Bench of the Hon’ble Supreme Court in ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha***, 2022 SCC OnLine SC 1199 has held as under:-

“9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife’s convenience which must be looked at while considering transfer.

10. *Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and*

law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.”

9. Considering the nature of proceedings under Section 125 Cr.P.C., it would be just and proper to apply the same principles to the instant case and duly consider the convenience of the female litigant.

10. In the present case, distance of Sirsa and Jalalabad is 150 kms approximately and therefore, it would cause immense hardship to the petitioner, much less, petitioner will have to bear the transportation expenses to attend the Court proceedings on each and every date.

11. In view of the law settled by the Hon’ble Supreme Court in *Sumita Singh’s* case (supra), *Rajani Kishor Pardeshi’s* case (supra) and *N.C.V. Aishwarya’s* case (supra), present petition is allowed. Resultantly, the trial in the case bearing No. MNT No. 125/8/2023 dated 01.02.2023 titled as *Hargun Kaur and Another Vs. Daljeet Kaur* pending in the Court of Principal Judge, Family Court, Jalalabad is ordered to be transferred to the jurisdiction of District and Sessions Judge, Sirsa. The District Judge, Jalalabad is directed to transfer the record pertaining to the aforesaid case to the District Court, Sirsa, who will assign the said petition to the competent Court of jurisdiction at Sirsa. The parties are directed to appear before the learned trial Court within a period of one month from today.

August 08, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No